

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 21

August 8, 2013

**SUBJECT: ARRESTS OF FOREIGN NATIONALS - NOTIFICATIONS**  
- REVISED AND RENAMED; RIGHTS OF ARRESTED FOREIGN  
NATIONALS - DELETED; ARREST OF FOREIGN NATIONALS  
- DELETED; NOTIFICATION OF ARREST - DELETED; FOREIGN  
NATIONAL ADVISEMENT, FORM 02.11.00 - ACTIVATED; AND  
NOTIFICATION OF ARREST/DETENTION OF A FOREIGN NATIONAL,  
FORM 02.11.01 - ACTIVATED

**BACKGROUND:** The Vienna Convention on Consular Relations is a treaty signed by over 140 countries including the United States. This Treaty guarantees that individuals arrested **or** detained for more than two hours, in a designated foreign country, must be notified by police of their right to speak to a consular officer from their country's consulate. If a **foreign national (defined as any person who is not a United States citizen)** is arrested **or** detained for more than two hours, officers **shall** cause such notification to be made without delay. Certain countries require **mandatory** consular notification by police when their citizens are arrested **or** detained for more than two hours. This notification shall be made without delay, regardless of the foreign national's request to the contrary.

California Penal Code Section 834c mandates that California peace officers comply with the spirit of the Treaty for handling the arrest or detention for more than two hours, of a known or suspected foreign national.

**Note:** Nothing in this Order conflicts with Department Manual Section 4/264.50, *Enforcement of United States Immigration Laws*, which states in part, that "Officers **shall not** initiate police action with the objective of discovering the alien status of a person" and, "Officers **shall not** arrest nor book persons for violation of Title 8, Section 1325, of the United States Immigration Code (Illegal Entry)." **The Department does not bear the responsibility for immigration laws, and therefore, shall not enforce them.**

**PURPOSE:** This Order revises and renames Department Manual Section 4/765.80, *Arrests of Foreign Nationals - Notifications*, which delineates the procedure for making notifications of arrests or detentions affecting foreign nationals; deletes Department Manual Sections 4/284.46, *Rights of Arrested Foreign Nationals*, 4/618, *Arrest of Foreign Nationals* and 4/618.20,

*Notification of Arrest*; and integrates the language from these deleted sections into Section 4/765.80. Additionally, this Order activates the Foreign National Advisement, Form 02.11.00, and the Notification of Arrest/Detention of a Foreign National, Form 02.11.01.

**PROCEDURE:**

- I. **ARRESTS OF FOREIGN NATIONALS - NOTIFICATIONS - REVISED AND RENAMED.** Department Manual Section 4/765.80, *Arrests of Foreign Nationals - Notifications*, has been revised and renamed as the *Detentions and Arrests of Foreign Nationals - Notifications*. Attached is the revised Section with revisions indicated in italics. Department employees must comply with the revised procedures when they **become aware** that an arrestee or a person detained for more than two hours, is a foreign national.
- II. **RIGHTS OF ARRESTED FOREIGN NATIONALS, ARREST OF FOREIGN NATIONALS, AND NOTIFICATION OF ARREST - DELETED.** Department Manual Sections 4/284.46, *Rights of Arrested Foreign Nationals*, 4/618, *Arrest of Foreign Nationals* and 4/618.20, *Notification of Arrest* have been deleted. The language from these deleted sections have been integrated into Department Manual Section 4/765.80.
- III. **FOREIGN NATIONAL ADVISEMENT, FORM 02.11.00 - ACTIVATED, AND NOTIFICATION OF ARREST/DETENTION OF A FOREIGN NATIONAL, FORM 02.11.01 - ACTIVATED.** The Foreign National Advisement, Form 02.11.00, and the Notification of Arrest/Detention of a Foreign National, Form 02.11.01, have been activated.

The Foreign National Advisement form must be completed and hand-delivered/faxed/scanned and emailed to the Jail Division Watch Commander (WC) when officers detain a foreign national for more than two hours, or when detention officers process an arrested foreign national at Jail Division. The Notification of Arrest/Detention of a Foreign National form must be completed and faxed/scanned and emailed to the appropriate consular office by the detention officer or the Jail Division WC or their designee when mandatory consular notification is required, or when requested by the arrested/detained foreign national. The original Foreign National Advisement form and the Notification of Arrest/Detention of a Foreign National form must be forwarded to the Jail Division WC for retention.

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**FORMS AVAILABILITY:** The Foreign National Advisement and the Notification of Arrest/Detention of Foreign National forms are available in LAPD E-Forms, on the Department's Local Area Network (LAN). Copies of the forms are attached for immediate use and duplication.

A link to the United States Department of State containing the foreign language translation of consular notification statements will be posted on the LAN home page.

**AMENDMENTS:** This Order deletes Sections 4/284.46, 4/618 and 4/618.20, and amends Section 4/765.80 of the Department Manual. The Form Use link applicable to the Foreign National Advisement and the Notification of Arrest/Detention of a Foreign National forms is accessible in LAPD E-Forms, on the Department's LAN.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Internal Audits and Inspections Division, will review this directive and determine whether an audit or inspection will be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in black ink, appearing to read 'C. Beck', is written over the printed name and title.

CHARLIE BECK  
Chief of Police

Attachments

DISTRIBUTION "D"

**DEPARTMENT MANUAL  
VOLUME IV  
Revised by Special Order No. 21, 2013**

**765.80 DETENTIONS AND ARRESTS OF FOREIGN NATIONALS – NOTIFICATIONS.**

*The Vienna Convention on Consular Relations is a treaty signed by over 140 countries including the United States (U.S.). This Treaty guarantees that individuals arrested **or** detained (for more than two hours) in a designated foreign country, must be notified by police of their right to speak to a consular officer from their country's consulate. If a **foreign national (defined as any person who is not a U.S. citizen)** is arrested **or** detained (for more than two hours), officers **shall** cause such notification to be made without delay. Certain countries require **mandatory** consular notification by police when their citizens are arrested **or** detained for more than two hours. This notification shall be made without delay, regardless of the foreign national's request to the contrary.*

*California Penal Code Section 834c mandates that California peace officers comply with the spirit of the Treaty for handling the arrest or detention (for more than two hours), of a known or suspected foreign national.*

*Officers may **become aware** an arrestee or detainee is a foreign national:*

- When informed by the arrestee/detainee;*
- When presented with a foreign passport or an alien registration document;*
- Through reliable third-party information [e.g., another officer, family member, interpreter, or National Crime Information Center (NCIC) check]; or*
- During the booking process or completion of a Field Interview Report, Form 15.43.00, the arrestee/detainee indicates that they were born in a foreign country, or names a foreign country as their place of birth or residence.*

***Employees must never ask an arrestee/detainee about their legal status in the U.S.***

***Note:*** *For foreign nationals who qualify for immunity from arrest or detention, employees should refer to Department Manual Section 4/284.10, Diplomatic and Consular Contacts.*

*Department employees shall comply with the following procedures when they **become aware** that an arrestee or a person detained (for more than two hours) is a foreign national.*

***Arresting/Detaining Officer's Responsibilities.*** *If during an arrest, detention or booking process, the arresting/detaining officer **becomes aware** that the arrestee/detainee is a foreign national, the officer shall:*

- Ask the arrestee/detainee if they are a U.S. citizen;*
- If the arrestee/detainee states that he/she is **not** a U.S. citizen, determine the arrestee's/detainee's country of citizenship and whether that country is subject to mandatory or optional notification protocols;*
- Advise the foreign national that he/she has a right to communicate with an official from the consulate of his/her country;*
- During the booking process, advise the detention officer of the arrestee's foreign national status for appropriate action; or,*

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- *During the detention (if detained for more than two hours):*
  1. *Provide the detainee with a Foreign National Advisement, Form 02.11.00, complete the applicable sections of the form, and have the detainee sign it;*
  2. *Telephonically notify the Jail Division Watch Commander (WC) of the detainee's foreign national status for appropriate action;*
  3. *Provide the telephone number of the consular office to the detainee;*
  4. *Fax/scan and email a copy of the Foreign National Advisement form without delay to the Jail Division WC; and,*
  5. *As soon as practicable, hand-deliver or send, via intradepartmental mail, the **original** Foreign National Advisement form, to the Jail Division WC.*

***Note:** Real-Time Analysis and Critical Response Division must be contacted for guidance when a detainee claims to be a diplomatic agent, a career consular officer, an honorary consular officer, or a family member or employee of such agent.*

***Detention Officer's Responsibilities:** When advised by the arresting officer that an arrestee is a foreign national, the detention officer shall:*

- *Provide the arrestee with a Foreign National Advisement form, complete the applicable sections of the form and have the arrestee sign it;*

***Note:** In the event the arrestee does not understand the Foreign National Advisement form due to a language barrier, a Foreign National Advisement form in his/her appropriate language or Department translation services shall be provided. A copy of the Foreign National Advisement in foreign languages may be located in the Consular Notification and Access Handbook with the WC or available online at ([http://travel.state.gov/law/consular/consular\\_753.html](http://travel.state.gov/law/consular/consular_753.html)). A copy of the Foreign National Advisement in the person's appropriate language must be attached with the original Foreign National Advisement form.*

- *Whether the notification is optionally requested or mandatorily required, complete a Notification of Arrest/Detention of a Foreign National, Form 02.11.01, and fax/scan and email it to the appropriate consular office;*
- *Provide the telephone number of the consular office to the arrestee; and,*
- *The **original** Notification of Arrest/Detention of a Foreign National form and the Foreign National Advisement form must be filed at Jail Division.*

***If requested by the arrestee, the detention officer shall:***

- *Ensure that the arrestee is allowed access to a telephone to contact their country's consular office;*
- *Permit a consular officer to visit the arrestee; and,*
- *Permit a consular officer to telephonically speak with the arrestee, when the consular officer is unable to personally visit the arrestee.*

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***Jail Division Watch Commander's Responsibilities.*** When notified that a foreign national has been or will be detained **for more than two hours** and will not be booked, the Jail Division WC shall:

- Determine whether the foreign national's country is subject to mandatory or optional notification;
- If either optionally requested or mandatorily required, complete a Notification of Arrest/Detention of a Foreign National form;
- Fax/scan and email a copy of the Notification of Arrest/Detention of a Foreign National form to the detained foreign national's appropriate consular's office;
- Cause the detaining officer to provide the telephone number of the consular office to the detained foreign national; and,
- File the **original** Notification of Arrest/Detention of a Foreign National form and the Foreign National Advisement form at Jail Division.

***If requested by the detained foreign national (if detained for more than two hours), the Jail Division WC shall:***

- Ensure that the detained foreign national is allowed access to a telephone to contact the consular office;
- Permit a consular officer to visit the detained foreign national; and,
- Permit a consular officer to telephonically speak with the detained foreign national, when the consular officer is unable to personally visit the detained foreign national.

***Area Commanding Officers' and Jail Division Commanding Officer's Responsibility.***

*Area commanding officers and the Jail Division Commanding Officer must ensure that officers and detention officers adhere to the procedures within this section.*

***Real-Time Analysis and Critical Response Division Responsibilities.*** Real-Time Analysis and Critical Response Division must make the appropriate inquiries when they become aware that a detainee claims to be a diplomatic agent, a career consular officer, an honorary consular officer, or a family member or employee of such agent.

**FORM USE Link**  
**(The FORM USE link is accessible from LAPD E-Forms, on the**  
**Department's Local Area Network)**

**02.11.00 FOREIGN NATIONAL ADVISEMENT, FORM 02.11.00.**

**Use of Form.** *This form shall be completed by the detaining officer or detention officer, anytime a foreign national (defined as any person who is not a United States citizen) is arrested or detained for more than two hours. Statement No. 1 shall be read when notification is optional. Statement No. 2 shall be read when mandatory notification is required.*

**Completion.** *This form shall be completed by the detaining officer or detention officer.*

**Distribution.**

- 1 – Original, kept on file at Jail Division.
- 1 – **TOTAL**

**02.11.01 NOTIFICATION OF ARREST/DETENTION OF A FOREIGN NATIONAL, FORM 02.11.01.**

**Use of Form.** *This form must be completed by the detention officer or the Jail Division Watch Commander or their designee anytime they **become aware** an arrestee or detainee (for more than two hours) is a foreign national (defined as any person who is not a United States citizen), and notification to the arrestee/detainee's consulate is mandatory, or optionally requested by the arrestee/detainee. This form shall be immediately faxed/scanned and emailed to the foreign national's appropriate consular office.*

**Completion.** *The completion of this form is self-explanatory.*

**Distribution.**

- 1 – Original, kept on file at Jail Division.
- 1 – **TOTAL**

**LOS ANGELES POLICE DEPARTMENT  
FOREIGN NATIONAL ADVISEMENT**

DR No. \_\_\_\_\_

This form is to be completed anytime a foreign national has been arrested or has been detained for more than two hours. **EMPLOYEES MUST NEVER ASK AN ARRESTEE/DETAINEE ABOUT THEIR LEGAL STATUS IN THE UNITED STATES.**

Arrestee's/Detainee's Name: \_\_\_\_\_  
(Last) (First) (M. I.)

Booking Number: \_\_\_\_\_ Date of Arrest: \_\_\_\_\_

Booking Charge(s): \_\_\_\_\_ Location of Booking: \_\_\_\_\_

**Statement 1**

**When Consular Notification is at the Foreign National's Option**

"As a non-United States (U.S.) citizen who is being detained or arrested, you are entitled to have us notify your country's consular representatives here in the U.S. A consular official from your country may be able to help you obtain legal counsel, may contact your family, and may visit you in detention, among other things. If you want us to notify your country's consular officials, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?"

(Circle One)      YES      NO

**Statement 2**

**When Consular Notification Is Mandatory**

"Because of your nationality, we are required to notify your country's consular representatives here in the U.S. that you have been detained or arrested. After your consular officials are notified, they may call or visit you. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but they may be able to help you obtain legal counsel, may contact your family, and may visit you in detention, among other things. We will be notifying your country's consular officials as soon as possible."

**Note:** In the event an arrested or detained person does not understand the Foreign National Advisement due to a language barrier, a Foreign National Advisement in his/her appropriate language, or Department translation services shall be provided. A copy of the Foreign National Advisement in foreign languages is available online at [http://travel.state.gov/law/consular/consular\\_753.html](http://travel.state.gov/law/consular/consular_753.html). A copy of the Foreign National Advisement in the person's appropriate language shall be attached to the Foreign National Advisement.

Arrestee's/Detainee's Signature: \_\_\_\_\_

Consulate to be Notified: \_\_\_\_\_

Employee Completing Form: \_\_\_\_\_

Serial Number: \_\_\_\_\_ Area/Division of Assignment: \_\_\_\_\_

Jail Division Watch Commander/Supervisor Notified: \_\_\_\_\_ Serial No.: \_\_\_\_\_



## Mandatory Consular Notification

If the arrestee claims to be a citizen of any of the below-listed countries, the arresting/booking officer shall read Statement 2 on the front side of this form to the arrestee and then notify the arrestee's consulate.

Albania	Ghana	Saint Lucia
Algeria	Grenada	Saint Vincent and the Grenadines
Antigua and Barbuda	Guyana	Seychelles
Armenia	Hungary	Sierra Leone
Azerbaijan	Jamaica	Singapore
Bahamas	Kazakhstan	Slovakia
Barbados	Kiribati	Tajikistan
Belarus	Kuwait	Tanzania
Belize	Kyrgyzstan	Tonga
Brunei	Malaysia	Trinidad and Tobago
Bulgaria	Malta	Tunisia
China (including Macao and Hong Kong) (1)	Mauritius	Turkmenistan
Costa Rica	Moldova	Tuvalu
Cyprus	Mongolia	Ukraine
Czech Republic	Nigeria	United Kingdom (3)
Dominica	Philippines	Uzbekistan
Fiji	Poland (2)	Zambia
Gambia	Romania	Zimbabwe
Georgia	Russia	
	Saint Kitts and Nevis	

(1) Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office, the unofficial entity representing Taiwan's interest in the U.S., can be notified at their request; see also footnote 128 on page 66 of the *Consular Notification and Access Manual* ([http://travel.state.gov/law/consular/consular\\_753.html](http://travel.state.gov/law/consular/consular_753.html)).

(2) Mandatory only for foreign nationals who are not lawful permanent residents in the U.S. (i.e., "green card" holders). Otherwise, upon the national's request. See the question "But since 'green card' holders are living in the United States permanently, why can't I ignore consular notification requirements for them?" on page 12 of the Manual; see also footnote 18 on page 43 of the Manual.

(3) The bilateral consular convention between the U.S. and the United Kingdom (U.K.) applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, consular notification and access should be provided to the nearest U.K. consulate for them and all others from a British possession listed above. For advice on how to ascertain whether an arrested or detained person is a British national, see the question "What about British nationals" on page 24 of the Manual. For the U.S.-U.K. convention, see footnote 30 on page 47 of the Manual.

**NOTIFICATION OF ARREST/DETENTION OF A FOREIGN NATIONAL  
LOS ANGELES POLICE DEPARTMENT  
Los Angeles, CA**

**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

**TO:** Embassy/Consulate of \_\_\_\_\_ in \_\_\_\_\_ , \_\_\_\_\_  
(Country) (City) (State)

**FROM:**

Name: \_\_\_\_\_

Office: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

\_\_\_\_\_  
(Name and Serial No. of Jail Division Watch Commander)

\_\_\_\_\_  
(Telephone Number)

*We arrested/detained the following foreign national, whom we understand to be a national of your country, on*

\_\_\_\_\_ (Date) \_\_\_\_\_ (Time)

Mr./Mrs./Ms.: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Booking Number: \_\_\_\_\_

Date of Passport Issuance: \_\_\_\_\_

Place of Passport Issuance: \_\_\_\_\_

**This person has been or may be charged with the following offense(s):**

\_\_\_\_\_  
To arrange for consular access, please call \_\_\_\_\_ between the hours of \_\_\_\_\_ and \_\_\_\_\_. Please refer to booking number \_\_\_\_\_ when you call.

**COMMENTS:**